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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/242,191	05/17/1999	MICHEL RIERA	144-198	9738
23973 7590 01/11/2007 DRINKER BIDDLE & REATH ATTN: INTELLECTUAL PROPERTY GROUP ONE LOGAN SQUARE 18TH AND CHERRY STREETS PHILADELPHIA, PA 19103-6996			EXAMINER TRAN, THAO T	
			ART UNIT	PAPER NUMBER
			1711	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/11/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/242,191

Applicant(s)

RIERA, MICHEL

Examiner

Thao T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19,21-26,28-31 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19,21-26,28-31 and 34-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This is in response to the Amendment filed on 10/06/2006.
2. Claims 19, 21-26, 28-31, 34-42 are currently pending in this application. Claims 19, 35 have been amended.
3. It is acknowledged that the Office action April 4, 2006 was made Non-Final.
4. In view of the prior Office action, the objection of the specification has been withdrawn due to the Amendments made thereto. The 112 and prior art rejections are maintained below.

### *Claim Rejections - 35 USC § 112*

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 19, 21-26, 28-31, and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 19 and 35 contain the newly added limitations, “an angle greater than a minimum angle greater than 0° and less than a maximal angle less than 180°” and “where 0° is less than a minimum angle less than  $\phi$  and  $\phi$  is less than a maximum angle less than 180°” respectively, that are new matter because they have no proper support in the specification as originally presented. The specification discloses an angle being variable between a minimum value obtained when the

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coils are in contact and a maximum value of  $180^{\circ}$  less the minimum angle imposed by the dimensions of the coils (see page 8). As shown in Figures 1 and 6, the minimum angle when the coils are in contact is not  $0^{\circ}$ .

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 19, 21-26, 28-31, and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 19 and 35 are indefinite due to the use of “an angle greater than a minimum angle greater than  $0^{\circ}$  and less than a maximal angle less than  $180^{\circ}$ ” and “where  $0^{\circ}$  is less than a minimum angle less than  $\phi$  and  $\phi$  is less than a maximum angle less than  $180^{\circ}$ ”. It is unclear to the examiner what Applicants are trying to claim. Applicants are required to write these limitations in comprehensive language.

#### ***Claim Rejections - 35 USC § 102***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 19, 21-26, 28-31, 34-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Heyden et al. (US Pat. 3,551,794).

Heyden teaches a method for generating a magnetic field to act on a fluid moving through a conduit, the method comprising the use of a pair of coils (12, 18) or permanent magnets for generating a first magnetic field and a pair of coils (20, 26 or 22, 24) with a

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ferromagnetic core to generate a second magnetic field; wherein the magnitude and direction of the resultant magnetic field is varied over time, forming varying angles with the direction of the flow of the liquid. Heyden further teaches a sinusoidal electrical current (time-varying current) is applied to the coils, shifted in 90° phase ( $\pi/2$ ) and the amplitude and frequency can be kept constant or varied. (See Figs. 1-4, 6-10; col. 5-10).

With respect to the preamble limitation, since Heyden teaches the same steps in the process, what Heyden teaches would inherently be able to perform the same functions and intended purpose as presently claimed.

### ***Response to Arguments***

11. Applicant's arguments filed 10/06/2006 have been fully considered but they are not persuasive.

Applicants contend that Vander Heyden differs from the presently claimed invention because the reference does not teach a method of creating stereochemical deformations or of producing a magnetic field capable of creating such deformations. However, since the reference teaches the same steps of generating magnetic fields with varying amplitude, the method disclosed by Vander Heyden would inherently have the same effects as presently claimed. Moreover, it has been known within the skill in the art that in the presence of an external magnetic field, the electrons of a molecule circulate about the direction of the applied magnetic field, causing a small magnetic field at the nucleus that opposes the external magnetic field. This, in turn, causes an electron density shift around each nucleus in a molecule according to the types of nuclei and bonds in the molecule, making the electron density uneven around each nucleus.

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Thus, an external magnetic field can cause a stereochemical change in the molecule by shifting the electron density in the molecule. Hence, Vander Heyden anticipates the presently claimed invention.

### *Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

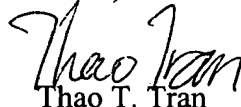
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is 571-272-1080. The examiner can normally be reached on Monday-Friday, from 9:00 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Thao T. Tran  
Primary Examiner  
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